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EXAMINER

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ART UNIT PAPER NUMBER

3754

DATE MAILED: 01/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Notification of Non-Compliant Appeal Brief
(37 CFR 41.37)**

Application No.

10/681,580

Applicant(s)

MACKAL ET AL.

Examiner

Eric Keasel

Art Unit

3754

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 14 November 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

Claims 4, 7, 8, and 10-17 were withdrawn from consideration with traverse. A complete reply to the final rejection should have included the cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01. However, no such action was taken. Appellant must either cancel these claims or petition the restriction requirement. Appropriate action must be taken or the appeal will be dismissed. Appellant has again failed to refer to the drawings and reference characters in the summary of the claimed subject matter. The argument section appears to contain separate arguments for separate claims; however, appellant has again failed to place these arguments under separate headings.

Eric Keasel

Eric Keasel
Primary Examiner
Art Unit: 3754